## **United States Department of Labor Employees' Compensation Appeals Board**

D.F., Appellant	- ) )
and	) Docket No. 19-1892 ) Issued: March 17, 2021
U.S. POSTAL SERVICE, POST OFFICE, Jamaica, NY, Employer	)
Appearances: Alan Shapiro, Esq., for the appellant <sup>1</sup> Office of Solicitor, for the Director	Case Submitted on the Record

## ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On September 12, 2019 appellant, through counsel, filed a timely appeal from a June 24, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-0264.

On March 31, 2015 appellant, then a 35-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 2, 2015 she suffered a back sprain and/or left shoulder injury as a result of carrying mail while in the performance of duty. She stopped work on March 2, 2015. By decision dated July 8, 2015, OWCP converted the claim to an occupational disease claim and denied it, finding that the evidence of record was insufficient to establish that the work events occurred as described. On July 23, 2015 appellant requested reconsideration of OWCP's July 8, 2015 decision and submitted additional medical evidence. By decision dated August 3, 2015, OWCP denied appellant's request for reconsideration. On September 28, 2015 appellant again requested reconsideration. By decision dated June 24, 2019, OWCP modified its prior decision to

<sup>&</sup>lt;sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

find that the evidence of record was sufficient to establish that the employment events occurred as alleged, but denied the claim, finding that appellant had not established a medical condition causally related to the accepted factors of her federal employment.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issue(s) depends on frequent cross-referencing between files.<sup>2</sup> For example, if a new injury is reported for an employee who previously filed a claim for a similar condition or the same part of the body, doubling is required.<sup>3</sup> Appellant has several other claims involving injuries to her left shoulder.<sup>4</sup> At the time of the June 24, 2019 decision on appeal, those claims had not been administratively combined with the present claim. By order dated August 4, 2020, under OWCP File No. xxxxxxy948, the Board directed OWCP to administratively combine OWCP File Nos. xxxxxxx948, xxxxxxx550, xxxxxxx521, and xxxxxxx299.<sup>5</sup> On remand OWCP administratively combined the above-noted left shoulder claim files, with File No. xxxxxxx550 serving as the master file. Therefore, for full and fair adjudication of the present claim, the case must be returned to OWCP to review the medical evidence in all of appellant's combined claim files. Following this and such further development as it deems necessary, it shall issue a *de novo* decision.

<sup>&</sup>lt;sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *R.S.*, Docket No. 19-0416 (issued November 26, 2019).

<sup>&</sup>lt;sup>3</sup> Id.; E.P., Docket No. 18-1333 (issued March 22, 2019); K.T., Docket No. 17-0432 (issued August 17, 2018).

<sup>&</sup>lt;sup>4</sup> Under OWCP File No. xxxxxx948 appellant filed an occupational disease claim on February 11, 2019 alleging that she aggravated a 2015 left injury and developed bursitis of the left shoulder due to factors of federal employment. Under OWCP File No. xxxxxx550 she filed a claim for a May 7, 2013 traumatic injury to her left shoulder when her vehicle door jammed as she was closing it. Under OWCP File No. xxxxxxx299 appellant filed a claim for a May 19, 2016 traumatic injury to her left shoulder when loading boxes from the loading dock onto her work vehicle.

<sup>&</sup>lt;sup>5</sup> Docket No. 20-0354 (issued August 4, 2020).

**IT IS HEREBY ORDERED THAT** the June 24, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: March 17, 2021 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Patricia H. Fitzgerald, Alternate Judge Employees' Compensation Appeals Board